

EXHIBIT A

Amendment to 6.08.020 Definitions.

As used in this Chapter, unless the context requires otherwise:

A. “Commercial” means any structure designed or intended to be used, or actually used, for occupancy for other than residential purposes.

B. “Construct” or “Construction” means erecting, constructing, enlarging, altering, repairing, improving, or converting any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law.

C. “Improvement” means any improvements to real property resulting in a new structure, additional square footage added to an existing structure, or the addition of living space to an existing structure.

D. “Mass Shelters” means a structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter. For mass shelters, “affordable” means that shelter is provided on a daily basis without a fee. The number of beds is determined by the maximum number of people who can be given overnight accommodations at one time on the site.

DE. “Median family income” means median family income by household size for the Portland Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development as adjusted for inflation and published periodically.

EF. “Net Revenue” means revenues remaining after the administrative fees described in Section 6.08.130 are deducted from the total Construction Excise tax collected.

FG. “Residential” means structure designed or intended to be used, or actually used, for occupancy for residential purposes including any residential structure, dwelling, or dwelling unit.

GH. “Value of Improvement” means the total value of the improvement as determined by the construction permit or building permit for the Improvement. The Bureau will calculate the total value by determining the value per square foot based on building type using the International Code Council Building Valuation Data Tables and multiplying that value by the area of the new structure or additional square footage from the exterior surface of the outside wall.

Amendment to 6.08.060 Exemptions.

A. No tax imposed under this Chapter shall be imposed upon the following improvements:

1. Improvements when the value of improvement is less than or equal to \$100,000;

2. Residential housing units guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income, for a period of at least 60 years following the date of construction of the residential housing;
3. Owner occupied residential properties qualifying under the property tax exemption program under Portland City Code Chapter 3.102.
4. Private school Improvements;
5. Public Improvements as defined in ORS 279A.010;
6. Public or private hospital Improvements;
7. Improvements to religious facilities primarily used for worship or education associated with worship;
8. Agricultural buildings, as defined in ORS 455.315 (2)(a);
9. Facilities operated by a not-for-profit corporation and that are:
 - a. Long term care facilities, as defined in ORS 442.015;
 - b. Residential care facilities, as defined in ORS 443.400; or
 - c. Continuing care retirement communities, as defined in ORS 101.020; or
- 10. Mass Shelters.**

B. Until June 30, 2018, no tax shall be imposed under this Chapter 6.08 on accessory dwelling units as defined by PCC 33.910.

C. The Portland Housing Bureau may require any person seeking an exemption to demonstrate that the person is eligible for an exemption and to establish all necessary facts to support the exemption.

Amendment to 6.08.090 Interest and Penalties for Failure to Comply.

A. Interest. If the Director of the Portland Housing Bureau determines that a person has failed to pay to the City all or any part of the construction excise tax due under this Chapter 6.08, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of the underpayment. Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.

B. Penalties. In addition to assessing interest, the Director of the Portland Housing Bureau may assess a penalty of five percent of the otherwise applicable tax liability upon:

1. Any person that initially qualifies for an exemption under Subsections 6.08.060 A.2., ~~and~~ 6.08.060 A.3, and 6.08.060 A.10. and the housing units subsequently fail to qualify for the exemption;
2. Any person who intentionally fails to state the full value of an improvement.

C. Penalties and interest merged with tax. Any accrued interest and imposed penalties under the provisions of this Section shall be merged with and become a part of the construction excise tax required to be paid under this Chapter 6.08. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new interest amounts.

EXHIBIT B

Amendment to 30.01.095 Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.

- A. The purpose of this Section is to reduce the costs of developing permanent affordable housing by exempting system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B. The City will exempt qualified affordable housing developments from paying all or part of system development charges required by Code. The Applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. Where new development consists of only part of one or more of the uses described in this section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The Applicant has the burden to prove entitlement to exemptions so requested.
- C. The City shall calculate exemptions in the manner authorized for calculating system development charges for rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section. Exemptions are applicable to the portions of residential properties that are directly used in providing housing for its low-income residents such as on-site manager units and shared space including but not limited to restrooms, community rooms and laundry facilities.
- ~~C~~D. To obtain the exemption, the applicant must present to the City, at the time of Application, documentation from PHB that the development qualifies for the exemption pursuant to this Chapter. Applicant must also pay an administration fee per unit on rental and/or owner-occupied units as determined by PHB.
- ~~D.~~ ~~The City shall calculate exemptions in the manner authorized for calculating system development charges for rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section.~~
- E. The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both. Deed restrictions may be used by PHB in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both.

F. Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of system development charges based on the type of housing provided:

1. ~~Affordability. Rental Units.~~

- a. For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30 percent of the gross household income at the level of the rent restrictions.
- ~~b. "Affordable" for ownership units means affordable to households earning at or below 100 percent of MFI and shall be sold to persons or households whose incomes are at or below 100 percent of MFI for a family of four as determined annually for the Portland Metropolitan Area by the U.S. Department of Housing and Urban Development as adjusted upward for a household of more than four persons.~~

2. ~~Rental Units:~~

- ~~ab.~~ The units receiving an exemption shall be affordable to households earning 60 percent or less of MFI at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60 percent or less of MFI, as adjusted by household size and as determined by ~~the U.S. Department of Housing and Urban Development~~ HUD for the Portland Metropolitan Area, except as provided for below. Such units shall remain affordable for a period of 60 years.
- ~~bc.~~ Effective July 1, 2014, developments of new buildings in Old Town/Chinatown shall be eligible for exemption subject to the following conditions:
 - (1) Units must be located in the Old Town/Chinatown Action Plan Focus Area;
 - (2) Financial need must be verified through project pro forma underwriting conducted by ~~Portland Development Commission~~ PDC;
 - (3) All units shall remain affordable for a period of not less than 10 years, to persons or households whose incomes are 100 percent or less of MFI, as adjusted by household size and as determined by ~~the U.S. Department of Housing and Urban Development~~ HUD for the Portland Metropolitan Area, and for not less than 5 years thereafter shall continue to remain affordable to persons or households whose incomes are 120 percent or less of MFI, as so described; and

- (4) The exemption granted by this Subsection shall not be available to developments for which a building permit application is filed on or after July 1, 2019, or after permit applications have been filed for development of 500 qualifying units, in the aggregate, whichever occurs first.

32. Owner-Occupied Units.

- a. ~~The units receiving an exemption shall be affordable to households earning at or below 100 percent of area median income and shall be~~ For the purposes of this Section, "Affordable" means that ownership units are sold to persons or households whose incomes are at or below 100 percent of MFI for a family of four as determined annually for the Portland Metropolitan Area by the U.S. Department of Housing and Urban Development HUD, which income may be adjusted upward for a household larger households with more than four persons; and
- b. ~~The ownership units fall~~ sell at or below ~~within~~ the price limit as provided by Subsection 3.102.090 D.

3. Mass Shelters.

- a. ~~For the purposes of this Section, "affordable" means that shelter is provided on a daily basis without a fee.~~
- b. ~~A mass shelter is a structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter. The number of beds is determined by the maximum number of people who can be given overnight accommodations at one time on the site.~~
- c. Mass shelters shall provide shelter for a minimum of 10 years.

- 4G. Pursuant to Section 30.01.040, ~~the Portland Housing Bureau PHB~~ PHB is responsible for enforcing property covenants and other agreements with applicants that are conditions of receiving exemptions provided by this Section. ~~Portland Housing Bureau PHB~~ PHB may adopt, amend and appeal administrative rules, establish procedures, and prepare forms for implementation, administration and compliance monitoring consistent with the provisions of this Section.

- a. ~~In addition to specific covenants and agreements required by the City as a condition of approval of an exemption application, qualified rental developments must adhere to the 60-year affordability requirements for~~

- ~~rental housing developments, including qualifying requirements related to rents and occupancy.~~
- ~~b. — In addition to specific covenants and agreements required by the City as a condition of approval of an exemption application, a qualifying ownership project must comply with applicable recapture or retention covenants.~~
- ~~e. In the event that an applicant violates the covenants, agreements or other requirements that were established by the City as a condition of approval of an exemption application, or the owner of the property wants to remove the affordability covenants of Subsection 30.01.095 F., the City shall terminate the exemption and make due and payable all previously exempt portions of system development charges at based on rates in effect on the date of the submittal of a complete exemption building permit application, plus accrued interest from the date of the issuance of the building permit to the date of the termination of the exemption calculated based on with the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140, and a processing fee of \$250 due to each City bureau exempting system development charges and to PHB as the administrator. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.~~
- ~~d. — For rental properties, if the exemption terminates within five years of initial building permit issuance, additional charges will be due and owing. These charges include a processing fee of \$250, and accrued interest from the date of the issuance of the building permit to the date of the termination of the exemption. The reinstated system development charges shall be determined based on rates in effect on the date of the submittal of a complete building permit application. Accrued interest shall be calculated based on the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.~~
- ~~e. — For owner occupied units, if the units is not sold to a qualifying household, additional charges will be due and owing prior to change of ownership. These charges include a processing fee of \$250, and accrued interest from the date of the issuance of the building permit to the date of the termination of the exemption. The reinstated system development charges shall be determined based on rates in effect on the date of the submittal of a complete building permit application. Accrued interest shall be calculated based on the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.~~